IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.MC.No. 3799 of 2007()

C.C.NO.1800/1998 OF J.F.C.M-II, ALUVA

PETITIONER: ACCUSED:

SHAHUL HAMEED, S/O. MUSTAFA,
AGED 36 YEARS, XI/93 AMC, PUTHUSSERY HOUSE,
LITTLE FLOWER ROAD, NEAR KATHAI COTTON MILLS,ALUVA

BY ADV. SRI.SABU THOZHUPPADAN

RESPONDENTS: COMPLAINANT & STATE:

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1. RAYSON JOSEPH, S/O. JOSEPH,
PADIKAPARAMBIL HOUSE, RAIL ROAD, ALUVA.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/12/2007 ALONG WITH CRMC.3801 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.Nos.3799 & 3801 of 2007

Dated this the 19th day of December 2007

O R D E R

The petitioner faces indictment in two separate prosecutions one under Section 138 of the Negotiable Instruments Act initiated by a stranger and the other under Section 498A initiated against him by his wife. Prosecutions are pending before two different courts. In both cases, cognizance has been taken by the learned Magistrates. In both cases, the petitioner had entered appearance and was enlarged on bail initially; but subsequently he has not been appearing. Warrants of arrest and coercive processes have been issued by the learned Magistrates against the petitioners.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent in both cases. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrates and seek regular bail. But he apprehends that his applications for bail may not be considered by the learned Magistrates on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrates to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrates and explain to the learned Magistrates, the circumstances under which he could not earlier appear before the learned Magistrates. I find absolutely no reason to assume that the learned Magistrates would not consider the applications for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, these Criminal Miscellaneous Cases are dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrates and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrates must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Hand over two copies of this order to the learned counsel for the petitioner for production before the courts concerned.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007